

ESTTA Tracking number: **ESTTA470870**

Filing date: **05/04/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204524
Party	Defendant Opnet Technologies, Inc.
Correspondence Address	ANDREW B. KATZ BELLES KATZ LLC 721 DRESHER RD STE 1100 HORSHAM, PA 19044-2216  akatz@belleskatz.com
Submission	Answer
Filer's Name	Andrew B. Katz
Filer's e-mail	akatz@belleskatz.com
Signature	/Andrew B. Katz/
Date	05/04/2012
Attachments	Answer to AppSensor Xpert Opposition.pdf ( 3 pages )(14131 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of:

**Application Serial No.: 85/404735 for APPSENSOR XPERT**

Filed: August 23, 2011

Published in the Official Gazette of December 6, 2011

Appsense Limited	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91-204524
	)	
OPNET Technologies, Inc.	)	
	)	
Applicant.	)	
	)	

**ANSWER TO OPPOSITION AND AFFIRMATIVE DEFENSES**

Applicant, OPNET Technologies, Inc. (hereinafter “OPNET” or “Applicant”), through its undersigned counsel, hereby timely files its Answer to Notice of Opposition and Affirmative Defenses in response to the Notice of Opposition filed by AppSense Limited (hereinafter “AppSense” or “Opposer”), on or before the stated deadline for Answering the Notice Opposition as set forth in the Board’s Scheduling Order of April 2, 2012. Applicant answers the specific allegations contained in Opposer's Notice of Opposition as follows:

As grounds for opposition, Opposer alleges as follows:

1. Applicant lacks sufficient information to either admit or deny the allegations in Paragraph 1 and therefore denies those allegations.
2. Applicant lacks sufficient information to either admit or deny the allegations in Paragraph 2 and therefore denies those allegations.

3. Applicant lacks sufficient information to either admit or deny the allegations in Paragraph 3 and therefore denies those allegations.

4. Applicant admits the allegations contained in the first sentence of paragraph 4. Applicant lacks sufficient information to either admit or deny the allegation in the second sentence of paragraph 4 and therefore denies that allegation.

5. Applicant lacks sufficient information to either admit or deny the allegations in Paragraph 3 and therefore denies those allegations.

6. Denied.

7. Denied.

8. Applicant admits the allegation contained in the first sentence of paragraph 8 and denies the remaining allegations contained in paragraph 8.

### **AFFIRMATIVE DEFENSES**

As its affirmative defenses to the Notice of Opposition, Applicant alleges as follows:

9. Opposer fails to state a claim upon which relief can be granted.

10. Opposer is not likely to be damaged by registration of Applicant's mark and therefore, Opposer lacks standing to oppose registration of same.

11. Applicant reserves the right to add to and amend its Affirmative Defenses after discovery in this matter.

WHEREFORE, Applicant requests that this Opposition proceeding be dismissed and that its application for registration of its design be allowed to register.

Respectfully submitted,

BELLES KATZ LLC

/Andrew B. Katz/

Andrew B. Katz

U.S.P.T.O. Reg. No. 34,200

721 Dresher Road, Suite 1100

Horsham, Pennsylvania 19044

phone: (215) 658-1890

fax: (888) 649-7733

email: [akatz@belleskatz.com](mailto:akatz@belleskatz.com)

COUNSEL TO OPNET TECHNOLOGIES, INC.

DATED: May 4, 2012

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of OPNET Technologies Inc.'s Answer to Notice of Opposition and Affirmative Defenses was served on Opposer's counsel by First Class Mail, postage prepaid, and via email on this 4th day of May, 2012 at the following address:

Cathleen E. Stadecker, Esq.  
Downs Rachlin Martin PLLC  
199 Main Street  
Burlington, VT 05402-0190  
tmip@drm.com, jfitzgerald@drm.com

/Andrew B. Katz/

Andrew B. Katz